

THE SCHOOL ADMINISTRATOR

and Uniform Compliance Guidelines
ISSUED BY STATE BOARD OF ACCOUNTS

Volume 180

December 2007

ITEMS TO REMEMBER

DECEMBER

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| December | 1: | Prove the Fund Ledger and Ledger of Receipts for the month of November to the control of all funds and reconcile the control with the depository statement. Prove all receipt accounts for each fund to total receipts for that fund. Prove the Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances to the total disbursements of the control account of the Fund Ledger. Prove all expenditure accounts with each program to the total disbursements of that program. |
| December | 20: | Last day to report and make payment of state and county income tax withheld during November to the Department of Revenue. |
| December | 25: | Merry Christmas - Legal Holiday (IC 1-1-9-1) |

JANUARY

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| January | 1: | New Year's Day - Legal Holiday (IC 1-1-9-1) |
| January | 2: | Open a Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances by recording the appropriations by programs approved by the board of school trustees in the Resolution of Appropriations for the 2008 calendar year unless such appropriations must be reduced pursuant to action taken by the County Board of Tax Adjustment (if applicable) or by the Department of Local Government Finance. Record in the expenditure accounts of each program the allotments made by the board of school trustees. Also add to the 2008 year's appropriations by programs and to the expenditure accounts by allotments, any encumbered appropriations and allotments of the 2007 calendar year to be carried forward. |
| January | 8-31: | Annual meeting of the school board to organize as board of finance by electing one member as president and one member as secretary for the year. A school corporation (as defined in IC 36-1-2-17) may determine if a board of finance meeting is needed on an annual basis. (After the first Monday and on or before the last day of January.) (IC 5-13-7-6) |
| January | 15-31: | IC 20-20-8-3 provides that no earlier than January 15 or later than January 31 of each year the governing body of a school corporation shall publish an annual performance report in accordance with IC 20-20-8-3. |
| January | 20: | Last day to report and make payment of state and county income tax withheld during December to the Department of Revenue. |
| January | 21: | Martin Luther King, Jr.'s Birthday - Legal Holiday (IC 1-1-9-2) |
| January | 31: | Last day to file fourth quarter report with the Internal Revenue Service and complete payment of federal tax withheld. Each employee shall be furnished Form W-2. |

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JANUARY
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January	31:	Last day to file form 100-R, Report of Names, Addresses, Duties and Compensation of Public Employees, with the State Board of Accounts.
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FEBRUARY

February	1:	Prove all ledgers for the month ending January 31 as outlined for the month of December.
February	12:	Legal Holiday – Lincoln's Birthday. (IC 1-1-9-1)
February	18:	Legal Holiday –Washington's Birthday. (IC 1-1-9-1)
February	20:	Last day to report and make payment of state and county income tax withheld during January to the Department of Revenue. (Please review Volume 140, Page 7, December 1997.)
February	28:	Last day to file withholding statements together with Yearly Reconciliation of Employer' s Quarterly Tax Returns with Internal Revenue Service and Indiana Department of Revenue, respectively.

SOCIAL SECURITY

We understand that for the maximum amount of taxable and creditable annual earnings subject to social security will increase to \$102,000 in 2008. No maximum base for Medicare will exist. Rates will remain at the 2007 level at a combined rate of 7.65 percent (both employer and employee for a total of 15.3 percent) representing a 6.20 percent rate for social security and 1.45 percent for Medicare.

DUAL OFFICE HOLDING - SCHOOL BOARD MEMBERS

Official Opinion 13 of the Indiana Attorney General in 1970 discusses at length the subject of dual office holding. Opinion includes a list of many prior Opinions that have been issued on the subject but related to specific offices. The Opinion points out that a position which involves the exercise of sovereign powers of the State is an office. Also, that an office to which compensation, whether salary or per diem, is attached is a lucrative office. The Opinion further states that the Constitution of the State of Indiana does not permit any person to hold more than one lucrative office at the same time, except as expressly permitted.

Official Opinion 29 of 1967 deals specifically with the office of a member of a school board. The Opinion explains that a member of a school board who receives or is entitled to receive some compensation for services on such board is the holder of a lucrative office as the term is used in Article 2, Section 9 of the Indiana Constitution. Section 9 concerns dual office holding and is the basis for the opinion of the Attorney General that when a person accepts a second such position while already serving in one, the person automatically vacates the position originally held. Also, the disbursing officer for the position vacated has authority to refuse to issue checks for any further payment of compensation to the dual office holder.

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SERVING TWO UNITS

The State Board of Accounts made an inquiry to the Office of the Indiana Attorney General and received an administrative advisory letter dated October 3, 1977. The subject of the inquiry was whether or not a person under contract to teach in one school corporation could be granted a leave of absence without loss of pay, by the governing board of that school corporation, for the purpose of attending meetings or conferences out of State as a member of the governing body of another school corporation. The inquiry was the result of the discovery in an audit that a teacher in one school corporation was a board member for a neighboring school corporation, which in itself did not present a problem. However, while attending an out of state conference for board members, the person was paid for teaching in the other school corporation.

A second question in the same inquiry and similar in nature as to subject was in regard to what the answer would be if the teacher was absent from teaching duties in serving as an officer or employee of another local governmental unit or a State agency, for which the teacher is also being compensated.

The conclusion reached in the advisory letter is as follows:

"It is therefore, my advice that it is not permissible for a person under contract to teach school for one corporation to be granted a leave of absence without loss of pay, by the governing body (board of school trustees) of that school corporation, for the purpose of attending meetings or conferences out of state as a member of the governing body of another school corporation. The same result would be reached if the teacher was absent from teaching duties in serving as an officer or employee of another local governmental unit or a state agency, for which the teacher is also being compensated."

RECORD OF HOURS WORKED

Please remember when situations arise that may be authorized, IC 5-11-9-4 provides in part: "The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees...employed by more than one (1) public agency or in more than one (1) position by the same public agency...".

SEPARATION OF POWERS

IC 20-26-4-11 states "In addition to any other eligibility requirements for members of the governing body of a school corporation as set forth in law, an individual who is employed as a teacher or as a noncertificated employee (as defined in IC 20-24-2-11) of the school corporation may not be a member of the governing body of the school corporation."

SUPPLEMENTAL SERVICE TEACHER'S CONTRACT

IC 20-28-6-4 provides in part (b) "A teacher employed in a public school must be employed on a uniform teacher's contract or a supplemental service teacher's contract" The section does not apply to a teacher engaged as a substitute teacher. IC 20-28-6-3 requires the State Superintendent to prescribe each of the three contract forms.

IC 28-6-7 states in part (b) "The supplemental service teacher's contract shall be used when a teacher provides professional service in evening school or summer school employment, except when a teacher or other individual is employed to supervise or conduct noncredit courses or activities. (c) If a teacher serves

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SUPPLEMENTAL SERVICE TEACHER'S CONTRACT

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more than one hundred twenty (120) days on a supplemental service teacher's contract in a school year, the following apply:

- (1) Sections 1, 2, 3, and 8 of this chapter.
- (2) IC 20-28-10-1 through IC 20-28-10-2.
- (3) IC 20-28-7-3 through IC 20-28-7-5.
- (4) IC 20-28-7-7 through IC 20-28-7-12.
- (5) IC 20-28-7-14.
- (6) IC 20-28-10-1 through IC 20-28-10-5

(d) The salary of a teacher on a supplemental service contract must equal the salary of a teacher on the regular salary schedule of the school corporation where the teacher will serve. Part-time service on the supplemental service contract is computed on the basis of six (6) hours as a full day of service."

The supplemental service teacher's contract form is not to be used when a teacher or other person is employed to supervise or conduct noncredit courses or activities.

**PAYMENT OF EMPLOYEES DURING ABSENCE FROM
WORK ON ACCOUNT OF COMPENSABLE INJURY**

Official Opinion of the Indiana Attorney General Number 34 of 1945, established guidelines to be observed in paying school teachers in instances where an absence from work was because of circumstances under which the teacher received compensation benefits through the provisions of the Workmen's Compensation Act (Worker's Compensation Act). Clarification was made in the Opinion, that a teacher who received benefits under the Workmen's Compensation Act (Worker's Compensation Act) while absent from work, would be entitled to receive from a school corporation only the difference between the amount received from Workmen's Compensation Act (Worker's Compensation Act) and the full benefits provided by law allowing teachers to be absent without loss of pay for a stated number of days; the laws considered in the Opinion do not authorize double payment for the same injury.

Official Opinion Number 17 of 1975 supports the prior Opinion in that while a teacher is entitled to each earned sick leave day for actual sickness or injury, in the event a teacher also receives Workmen's Compensation (Worker's Compensation) payments during the same time frame as receiving sick leave, an adjustment must be made so that the combined earned sick leave days and Workmen's Compensation (Worker's Compensation) payments do not exceed that teacher's normal salary for the same time frame.

We are of the audit position that if an employee is off work and receiving payments from a school corporation for sick days, the employee should either sign the Worker's Compensation payment over to a school corporation or only receive from a school corporation the difference between the employee's daily rate and the amount received from Worker's Compensation. Therefore, the individual would not receive amounts in excess of their daily rate.

Part of the "Analysis" section (not the "Conclusion" of Official Opinion 17, of 1975), discusses a partial reduction of sick days for proportional usage of sick days with Worker's Compensation benefits. We are unaware of current statutory provisions for some of the "Analysis" concerning code Section 20-6-16-2 which was repealed subsequent to the issuance of the Opinion. IC 20-28-9-12 states in part "A school corporation may adopt regulations governing the payment or part payment of teachers and then make the payments in

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**PAYMENT OF EMPLOYEES DURING ABSENCE FROM
WORK ON ACCOUNT OF COMPENSABLE INJURY**
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accordance with those regulations to teachers who may be absent because of: (1) sickness; . . ." Therefore, since the School Corporation has an expenditure to the extent of coverage for Worker's Compensation, and in the case of instructional assistants the School Corporation may have to provide for a substitute assistant, we would not take audit exception to a school corporation charging (and not reinstating) one full day for each day not in attendance, against any available leave for that individual based on written advice from a school corporation attorney in accordance with the provisions cited.

MATH AND SPELLBOUND BOWLS AND/OR SIMILAR CONTESTS

We have received inquiries regarding whether a school corporation can pay for expenses incurred by students participating in "Math and Spellbound Bowls" and/or Similar Contests."

IC 20-41-1-7, concerning extra-curricular does state in part "(a) The treasurer has charge of the custody and disbursement of any funds collected by a collecting authority and expended to pay expenses: (1) approved by the principal or teacher in charge of the school; (2) incurred in conducting any athletic, social, or other school function (other than functions conducted solely by any organization of parents and teachers); (3) that cost more than twenty-five dollars (\$25) during the school year; and (4) that are **not paid from public funds.**" Our Emphasis

The State Board of Accounts is of the audit position if these organizations or clubs are extra-curricular, normally the expenses should be paid from the club or organization fund in the Extra-Curricular Account.

However, sponsors or coaches shall be paid from the General Fund of the school corporation by addendums to the teacher contracts.

Additionally, please review the Accounting and Uniform Compliance Guidelines Manual for Extra-Curricular Accounts, Article on General Fund (Student Activity Funds) for other methods of paying for "Math and Spellbound Bowls and/or Contests".

ACCOUNTING FOR GIFTS, DONATIONS

Cash donations that are extra-curricular in nature may be accounted for in the Extra-Curricular Account. Any school corporation donations shall be accounted for in the school corporation records. The acceptance of these donations shall have prior approval by the Board of School Trustees. Either the School Corporation Treasurer or Extra-Curricular Treasurer will be responsible for the accounting of these funds as applicable.

OBSOLETE VOLUME

All articles of Volume 140 of "The School Administrator" have now been updated and reprinted in later volumes or are no longer applicable. Thus Volume 140, which was distributed December 1997, may now be deleted from your files.

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ANNUITIES

The Indiana Attorney General issued Official Opinion 87-20 in response to a request for an opinion as to whether Indiana school corporations have authority to purchase annuities for teachers paid for with public funds.

The conclusion of Opinion 87-20 states "It is, therefore, my Official Opinion that, except as authorized by Indiana Code Article 5-10.2, the Indiana General assembly has not granted a school corporation authority to purchase annuities for teachers to be paid for **out of public funds.**"

Indiana Code Section 20-28-8-18 requires the governing body of a school corporation to withhold, on written request from a teacher, a requested amount of money from the salary of the teacher to be paid, as requested by the teacher or the beneficiary to an insurance company or other agency or organization in the State which provides, extends, supervises or pays for insurance or other protection or the establishment of or payment on an annuity account for the teacher. If a dividend accrues on the policy, it shall be paid or credited to the teacher. IC 20-28-8-18 does not authorize a school corporation to expend public money to establish another retirement plan other than the Indiana State Teachers' Retirement Fund.

However, IC 5-10.2-2-1 states "(a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by its board under its retirement fund law. Each board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law." "(b) The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3."

The school corporation attorney may need to be consulted for a written determination concerning any potential application of recurrent provisions and IC 20-29-1 or IC 20-26-3.

ELECTRONIC FUNDS TRANSFERS (EFT), STATE TAX LIABILITY

Please note school corporations should follow the Department of Revenue guidelines for making payments. However, we recommend electronic funds transfer as the method for payments to the State for school corporations. IC 5-13-5-5 requires the board of school trustees to pass a resolution authorizing those EFT transactions and the resolution must:

- (1) Specify the types of transactions that may be conducted by electronic funds transfer; and
- (2) Require the proper officers to maintain adequate documentation of the transactions so that they may be audited as provided by law.

IC 6-3-4-8.1 states "(a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars (\$1,000)."